Standard Designer Evaluation Form for All Building Contracts of $500,000 or Greater Construction Phase

Division of Capital Asset Management Standard Designer Evaluation Forms for Public Agencies

The Standard Designer Evaluation forms are required by Section 13 of Chapter 159 of the Acts of 2000 which amends Section 38E of MGL Chapter 7. As of November 1, 2000 every Public Agency as defined in section 44A of Chapter 149must complete the Standard Designer Evaluation Form for Designers hired by the Awarding Authority, in order to be eligible for state funding. *

- The Standard Designer Evaluation Form is available on the Commonwealth's web site at **www. State.ma.us/cam/deseval.htm** and by request to the Designer Selection Board – telephone: (617) 727-4046 or by email request to **Designer.Evaluations@state.ma.us**.
- The Public Agency must complete the Designer Evaluation form at the completion of the project and submit it to the Designer no later than 30 days after the project completion. "Occupancy" shall determine project completion for purposes of the Designer Evaluation Form.
- The Designer may submit a written response to the Division and the Board no later than 30 days after receipt of the completed evaluation. The letter should set forth any additional information concerning the building project or the oversight of the building construction contract by the public agency as may be relevant to the evaluation of the designer's performance on the contract.
- The Public Agency must submit the completed Designer Evaluation Form and the written response from the Designer, if any, to the Designer Selection Board, to be included in the Designer's Qualification File, and a copy shall be forwarded by the Public Agency to the Division of Capital Asset Management.
- Public Agencies must submit the Evaluation forms to the following addresses:
  - By mail or in person to both the **Designer Selection Board Headquarters, One Ashburton Place, 10th Floor, Room 1004, Boston, MA 02108** and to **Designer Evaluations, Division of Capital Asset Management, Office of Programming, One Ashburton Place, Boston, MA 02108, Attn: Designer Evaluations**
- Refer to the attached copy of the legislation.

Below is an outline of the procedures for the completion and submission of the Standard Designer Evaluation Form for Public Agencies.

Procedures:

1. If a project is limited to preliminary design, such as a building feasibility study or Master plan, the Public Agency must submit the Designer Evaluation Form at the completion of the study or master plan.
2. For projects involving both design and construction, there are two stages in the project at which the Public Agency must complete the evaluation form as follows:
   - At the completion of the **Schematic Design phase**, the Agency must provide the Designer with a written preliminary evaluation for informational purposes. The Design Phase form may be utilized at this phase. This preliminary evaluation is not required to be submitted to DCAM and the DSB, but must be provided to the Designer no later than 30 days after completion of the schematic design phase of the project.
   - At the completion of the Construction project, the Public Agency must provide the Designer with a completed Design Phase **and** Construction Phase Evaluation Form for the entire project. These **two completed forms** must be submitted to the Designer no later

* "Public Agency" means a department, agency, board, commission, authority, or other instrumentality of the commonwealth or political subdivision of the commonwealth, or two or more subdivision thereof but not including the Massachusetts Bay Transportation Authority. "Public Agency" and "Awarding Authority" are used interchangeably in this document. "Designer" is defined in MGL Chapter 7, Section 38 A ½.

than 30 days after the project completion. The Public Agency must then submit these forms to the Designer Selection Board and the Division of Capital Asset Management no later than 70 days after the project completion.

3. The Official from the Public Agency or the Owner's Representative (as described in Section 44A of Chapter 149*) shall certify that the information contained on the Designer Evaluation form represents, to the best of his/her knowledge, a true and accurate analysis of the designer's performance record on the contract.
4. The Designer will have the opportunity to submit a written response to DCAM and to the Designer Selection Board disputing any information contained in the form and setting forth any additional information concerning the building project or the oversight of the building construction contract by the public agency as may be relevant to the evaluation of the designer's performance on the contract. Any such letter must be attached by the Public Agency to the evaluation forms submitted to the Designer Selection Board and the Division of Capital Asset Management.
5. The information in the Designer's Qualification File including the completed evaluation forms will be made available to Public Agencies only upon written request to the Designer Selection Board or to the Division of Capital Asset Management.
6. Section 13 of Chapter 159 of the Acts of 2000 contains language providing limited indemnification for any public employee or public employer (as defined in Section 1 of Chapter 258) who has completed a Designer Evaluation form. The public employee is ensured of legal representation by the Commonwealth or the Public Agency, if sued, and the State will indemnify the employee from all personal financial losses and expenses including, but not limited to, legal fees and filing costs, if any, in an amount not to exceed $1,000,000. If the employee is found to have acted in a "willful, wanton or reckless manner", by the courts, the Public Agency or the Commonwealth will still cover legal fees and filing costs, but not damages. Please review the attached legislation for more details regarding this provision in the law.
7. Designer Evaluations must be completed for all building project contracts of $500,000 or more and dated on or after January 1, 2002.

Instructions for Completion of Consultant Evaluation Form

Purpose

The purpose of this form is to fulfill the mandate of the law (Section 13 of chapter 159 of the Acts of 2000 which amends Section 38E of chapter 7) which requires State agencies utilizing State funds for building projects to evaluate the performance of Designers.

Responsibility

The evaluation is intended to be objective, independent and fair. The evaluation should be completed by the Project Manager (PM) and reviewed by the Supervisor and approved prior to its submission to the Designer. The Consultant Evaluation Form must be completed by every Public Agency within 70 days of project final completion in order to be eligible for State funds. Refer to the Procedures included in this package for full details.

Process

Evaluation Forms are to be completed at a minimum at the completion of the project. It is recommended that evaluations be completed at several stages of the Design and Construction Process with the intention of providing the consultant with opportunities for corrective action to be taken prior to the completion of the project. If the project involves both Design and Construction by the same designer, then both the Design Phase form and this Construction Phase form should be completed at the completion of the project.

Rating/Scoring

The rating for each category should be based on overall performance, but specific issues and problems can be noted through remarks annotated at the relevant category. The more detailed and constructive criticism, the more opportunity for the Consultant to respond and improve. Ratings should be entered in whole numbers (integers 1, 2, 3 or 4) only. The score should be calculated by multiplying each score by the weighting factor, (percentage noted inside box next to score) which is based on the relative importance of the various responsibilities. A score of 1 indicates dissatisfactory performance and must be accompanied by a detailed description of areas in need of improvement.

Indicate the project phase that has just been completed, note that Design utilizes a different form. All questions have relevance to each of the construction phases of a project. Where a specific bulleted question does not apply, consider the overall numbered question.

Question #1 This question documents the Designer's ability to administer the construction contract through timely and thorough review of the Contractor's work. It also is a place to comment on their capability in terms of documentation of the review and adequate back-up to support their approvals and disapprovals. The quality and thoroughness of punch lists and the Designer's ability to lead the project meetings at the site should be commented on here.

Question #2 The Designer has the responsibility to provide oversight for all of the sub-consultants and to manage the Design Team through the execution of the construction. Evaluate the Designer's competence in team leadership and their attention to details of the sub-consultants work as well as their own. The role of coordination continues through construction and is particularly time sensitive at this stage. Was the Designer available and responsive to the need to bring the Design Team together to resolve construction issues? If there was a problem with the performance of a subconsultant, it is ultimately the Designer's responsibility to resolve the issues – this is the section in which to document that situation. As a means to tracking dissatisfactory sub-contractor performance, be sure to indicate the name of any relevant subcontractor and describe the nature of the problems.

Question #3 Without regard to the reason for a change order (this is addressed in question #5) was the Designer thorough and prompt in providing requests for changes and documenting the reasons for the change? Did the Designer work to establish a cooperative relationship with the Contractor in order to facilitate negotiation and execution of needed changes?

Question #4 When problems arose during construction, was the Designer prompt, responsive and creative in providing solutions? Did the Designer provide adequate attention to the problems in order to facilitate prompt resolution?

Question #5 This question should address the quality of the Designer's construction documents as experienced through the progress of construction. Regardless of the GC or subcontractor's competencies, were the documents proven to be complete, easily read and utilized throughout the construction. This is an opportunity to document any areas where the PM feels that the Designer could have provided more detail or should have carried out more research during design. The quality of the documents should be reflected in the number of no-fee change orders - if change orders were high for some reason beyond the Designer's control, they should not be penalized. Errors and omissions requiring change orders or creating other problems should be documented here.

Question #6 This question evaluates the Designer's ability to maintain adequate and thorough communications with the PM throughout the construction process. Were the communications clear and timely? Did the Designer have the technical capabilities to meet the requested/required electronic documentation and communication throughout the project?

Question #7 The Resident Engineer (RE) or Clerk of the Works (CW) plays a very critical role in ensuring the construction is overseen and all issues are documented and promptly addressed. The ability of the RE/CW to fulfill this role is highly dependent on the support and commitment of the Designer to working with the RE/CW. This question should document that relationship and objectively evaluate the role of the Designer in supporting the RE in the field.

Project Manager's are encouraged to add remarks to elaborate on the ratings and to provide additional feedback to the consultants.

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Design Consultant: _____ Date Completed: _____

Project Title: _____ Project #: _____

Contracting Agency: _____ Project Manager: _____

General Contractor _____

Signature Public Agency Official or Owner's Representative: _____

Performance Rating Scale:

1	2	3	4
Unsatisfactory	*Fair*	*Good*	*Excellent*

1. Contract administration.
   - Did the Designer provide adequate support during the Bid and Award process?
   - Did the Designer attend and adequately lead all of the job meetings?
   - Did the Designer completely review the requisitions (checking the math, %completion)?
   - Did the Designer facilitate project closeout/develop adequate punchlists?
   - Did the Designer review the shop drawings/submittals thoroughly and in a timely manner (within 7-14 days)?

	X.20=	
Rating		Score

Comments: _____

2. Management of Consultants - Coordination.
   - Did the Designer request and coordinate site observations by the sub-consultants at the appropriate times?
   - Did the Designer review and analyze the sub-consultant's shop drawings/submittals and oversee their timely review in an accurate manner?
   - Did the Designer respond in a timely manner to requests for information from Contractor?

	X.10=	
Rating		Score

Comments: _____

3. Evaluation and negotiation of change orders.
   - Did the Designer prepare proposal requests which clearly defined the scope changes?
   - Did the Designer assess the reasonableness of cost and time of the contractor's proposals?
   - Did the Designer provide a thorough analysis and explanation of the reason for the change order?

	X.10=	
Rating		Score

Comments: _____

4. Problem Resolution.
   - Did the Designer provide solutions that were creative and appropriate and in a timely manner?
   - Did the Designer suggest solutions that were cost effective?

	X.05=	
Rating		Score

Comments: _____

5. Quality of Contract Documents.
   - Were the consultants' drawings coordinated with the Designer's?
   - Were the code requirements met and well documented?
   - Were there a limited number of change orders as a result of the construction documents?
   - Was the information systematic, logical, easily read and interpreted by the G.C. and Res. Engineer?
   - Were the contract documents complete and clear with a limited number of requests for clarifications?
   - Did the Designer demonstrate knowledge of and compliance with Chapter 149 requirements?

	X.40=	
Rating		Score

Comments: _____

6. Communication Skills.
   - Was the Designer's written communication effective and informative?
   - Was the Designer's technical capability in terms of electronic technology and information management adequate for the needs of the project?
   - Did the Designer keep User Agency informed of construction progress?
   - Did the Designer effectively communicate (negotiate when necessary) with local officials and the contractor?

	X.10=	
Rating		Score

Comments: _____

7. Support of the Resident Engineer or Clerk of the Works
   - Did the Designer provide direction to the R.E?CW and work cooperatively with them to oversee the construction?
   - Did the Designer give the R.E/CW adequate resources and information to perform their job (plans, specs, other relevant communications)?
   - Did the Designer provide the R.E/CW with technical resources as needed to perform their work?

	X.05=	
Rating		Score

Comments: _____

Total Rating

Remarks: (include additional sheets as necessary)

Total Score

Overall Comments: _____